

ORIGINAL

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

- - - - -x

SSP CAPITAL PARTNERS, LLC,

Plaintiff,

- against -

Case No.:  
07 CV 3878 (NRB)

MANDALA LLC, HAROUST, LLC, HAMILTON GRANGE,  
LLC, ARABARA, LLC and 316 SECOND AVENUE,  
LLC,

Defendants.

- - - - -x

May 5, 2008

2:38 p.m.

EXAMINATION BEFORE TRIAL of RICHARD

H. RUBIN, the Non-Party Witness herein,  
taken by the Defendants, pursuant to  
Notice, held at the offices of Rubin &  
Licatesi, located at 591 Stewart Avenue,  
Garden City, New York 11530, before Martha  
Trikas, a Notary Public of the State of New  
York.

1

R. RUBIN

13

2 me.

3 Q. What did he say to you, and what  
4 did you say to him in that regard?

5 A. I don't know. We were talking  
6 about the loan for a good period of time  
7 together.

8 Q. Okay.

9 A. Exchanging documents, exchanging  
10 correspondence.

11 Q. Did Mr. Kaplan ever receive  
12 proposed loan documents from you?

13 A. I believe so, yes.

14 Q. Do you know whether he did?

15 A. I think I sent it to them. I  
16 think we spoke about them.

17 Q. Well, is it possible for you to  
18 be certain as to whether you sent him  
19 proposed loan documents from the file that's  
20 in front of you today?

21 A. I could probably do so, yes.

22 Q. Good. I'll let you do that, if  
23 you would be so kind.

24 A. Again, we are under a couple of  
25 time constraints because of the time that we

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

R. RUBIN

19

lender at or about March six, 2007?

A. And prior to that as well. For a period of time prior to that as well. But I don't remember exactly. The conversation did come up, probably came up with Mike Gordon also.

Q. Did you ever speak with Mr. Denderian?

A. No.

Q. Ever?

A. He may have called me once pressing for a closing, and I reminded him that he should be speaking with his attorney.

Q. Do you know whether any proposed closing documents were ever sent directly to Mr. Denderian by your office?

A. I don't believe that that would have been my practice. I think all of my correspondence was with Mr. -- I do remember my correspondence with Mr. Kaplan --

Q. Was a closing date ever set?

A. No.

Q. -- in this matter.

1 R. RUBIN 20

2 Not to my recollection.

3 Q. Do you know whether the --

4 A. Well, let me take it back. I'd  
5 have to check my book for 2007. I don't  
6 remember if we had scheduled it or if we  
7 hadn't.

8 Q. Well, let's leave a space.

9 A. Okay.

10 Q. Please check your book and let  
11 us know whether you scheduled it.

12 A. That's fine.

13 Q. If you did schedule it, please  
14 provide us with a copy --

15 A. Okay.

16 Q. -- of the book and any  
17 correspondence of and/or any communications  
18 that you may have transmitted to  
19 Mr. Denderian or to Mr. Kaplan letting them  
20 know of the scheduled closing date.

21 A. Okay.

22 (INSERT) nothing scheduled in our 2007 Diary

23 Q. Just referring --

24 A. Well, have you seen any of my --  
25 did I give you copies of any of my files?

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

R. RUBIN

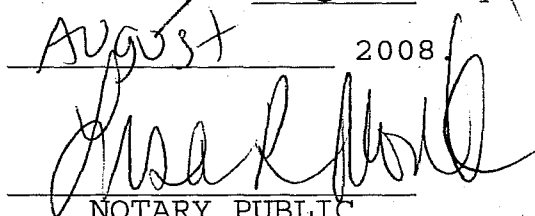
35

MR. YESKOO: Okay.

(Whereupon, at 3:21 p.m., the  
Examination of this Witness was  
concluded.)

  
\_\_\_\_\_  
RICHARD H. RUBIN

Subscribed and sworn to  
before me this 25<sup>th</sup> day  
of August 2008.

  
\_\_\_\_\_  
NOTARY PUBLIC

LISA R. MONK  
NOTARY PUBLIC, State of New York  
No. 01MO5027714  
Qualified in Nassau County  
Commission Expires May 16, 2010

1 R. RUBIN

38

2 CERTIFICATION

3  
4 I, MARTHA TRIKAS, a Notary Public in  
5 and for the State of New York do hereby  
6 certify:

7 THAT the witness whose examination is  
8 hereinbefore set forth, was duly sworn by  
9 me; and

10 THAT the within transcript is a true  
11 record of the testimony given by said  
12 witness.

13 I further certify that I am not  
14 related, either by blood or marriage, to any  
15 of the parties to this action; and

16 THAT I am in no way interested in the  
17 outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto  
19 set my hand this 25th day of May, 2008.

20  
21   
22 MARTHA TRIKAS